

RONDALL BRADY

IBLA 79-163

Decided August 31, 1979

Appeal from decision of Administrative Law Judge John R. Rampton, Jr., dismissing an appeal from an Area Manager's decision allocating grazing privileges in Lewiston Grazing District, Montana. MT 060-1-78.

Appeal dismissed.

1. Grazing Permits and Licenses: Appeals

An appeal from a decision of an Administrative Law Judge dismissing an appeal relating to grazing privileges for failure to state clearly and concisely the reasons for appeal will be dismissed where appellant does not clearly show error in the decision being appealed.

APPEARANCES: Rondall Brady, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

By decision dated August 1, 1978, the Bureau of Land Management Area Manager for the Judith Area, Lewiston, Montana, approved the application of Rondall Brady for certain grazing privileges on public lands and rejected the application for year-round use in the Brady-Solf area of Allotment G (LU land in sec. 30, T. 17 N., R. 27 E., principal meridian), and for an individual allotment on Federal range in section 30, same township, offering in lieu a proportionate share of LU land in the Brady-Solf area 29C. The allocations of grazing privileges were based on the present class 1 entitlement of Brady, following certain base property transfers and the termination of an Exchange of Use Agreement which ran for 10 years after February 23, 1967. Brady appealed and the matter was referred to an Administrative Law Judge.

BLM moved the Judge to dismiss the appeal because it was frivolous and did not clearly nor concisely state any errors in the Area Manager's decision.

In a decision dated December 29, 1978, Administrative Law Judge John R. Rampton, Jr., dismissed Brady's appeal, stating:

In his appeal Mr. Brady stated, in essence, that he was appealing the timing of use because he uses pasture G as a calf weaning and wintering pasture, the artesian well water does not freeze over, and pasture G is the best and handiest pasture for the calves because it is farthest away from the cows. He also protested giving Solf all the increase in carrying capacity on ground which he seeded without pay on L.U. land and because he owns the land on both sides. He further stated that pasture G was always allotted to him and obviously should be his. He stated: "You are on a 10 year exchange of use; dishonesty, deceivingly with it; Making the 10 year permanent."

On October 10, 1978, the Office of the Solicitor, U.S. Department of the Interior, Billings, Montana, filed a motion to dismiss the appeal and cited in support thereof the following background information leading to the decision of the Area Manager:

Appellant and a neighboring rancher had entered a ten-year Exchange of Use Agreement pursuant to 43 CFR 4111.3-2(c). (Copy attached as Exhibit A.) This Agreement expired on or about February 23, 1977, ten years after approval by the Bureau of Land Management. Pursuant to the exchange, Brady granted the use of 958 acres (167 AUM's) of private lands and federal range and in return received the use of 625 acres of federal range (L.U.) (208 AUM's).

Upon the expiration of the Exchange of Use, Mr. Brady lost the continued right to graze the lands he had received by the exchange of use. The Bureau of Land Management decision merely restores the parties to the preexchange of use status.

The motion was served upon the appellant and no response has been received. I am therefore accepting the information as provided in the memorandum in support of the motion to be correct.

In his appeal, Mr. Brady appears to be requesting that his license be issued as it has in past years for the same time of use, area of use, and number of livestock. However, his license was issued in part based upon an exchange of use agreement approved February 23, 1976, which expired ten years after that date. Because the exchange of use agreement is no longer in force, he does not have the right to graze those lands, and the fact that the lands may be better for his calving operations, or that he may have seeded them, does not give him the permanent right to continue to graze as he had done under the exchange of use agreement.

If there are any other issues raised in the appeal, other than as stated above, they are not understandably or clearly and concisely stated and the appeal is therefore dismissed.

Brady then appealed to this Board, alleging that he is being unjustly deprived of grazing rights in sec. 30, T. 17 N., R. 27 E., advertent to his performance under the 10-year Exchange of Use Agreement and his assumption that the status quo of that agreement would continue beyond its stipulated term.

It appears from the record that Brady had been granted all the Federal grazing privileges to which he is entitled. 43 CFR 4111.3-1(a), 4111.3-1(d)(2)(i), 4115.2-1(e)(3) (1977).

As the appeal does not point to any error in the decision of the Administrative Law Judge, and we see none, the appeal must be dismissed.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Douglas T. Henriques
Administrative Judge

We concur.

Edward W. Stuebing
Administrative Judge

Frederick Fishman
Administrative Judge

